Drawing Sheets Submitted

A replacement sheet number 1/12 has been submitted with changes. A marked up replacement sheet 1/12 has also been submitted, and clearly labeled as such, to more clearly point out the changes in red ink.

A replacement sheet number 7/12 has been submitted with changes. A marked up replacement sheet 7/12 has also been submitted, and clearly labeled as such, to more clearly point out the changes in red ink.

Maher Discloses No Ability to Turn with a Zero Turning Radius

The prior art reference cited by The Examiner, patent number 5,603,172, cited as anticipating the application currently under examination, discloses a motive source. Rewritten claim 21 claims a motive source capable of turning with a zero turning radius. Since Maher does not disclose a means of turning the motive source in a zero turning radius, the applicant submits that the apparatus provided by the rewritten claim 21 patentably defines the method claimed in the application currently under examination and meets the requirements of section 102.

The cited reference has no ability to move a material in a cyclonic or anticyclonic motion about the motive source, as the motive source turns with a zero turning radius. The claimed method of rewritten claim 21 and all of it's depending claims have the surprising new result of moving a material on the surface in situ while moving the tool carrier assembly in a cyclonic motion. The applicant submits that the claimed methods are patentable under section 103.

Hotte Can Not Turn the Motive Source with a Zero Turning Radius

Patent number 5,209,307 cited by The Examiner as anticipating the claimed method currently under examination discloses no ability to turn the motive source with a zero turning radius. Hotte discloses a rear mounted apparatus on a truck. The application currently under examination discloses a much more maneuverable motive source. Rewritten claim 21 provides the method step of turning with a zero turning radius. The applicant submits that new claim 21 and all of its depending claims satisfy novelty requirement of section 102 and are not anticipated by Hotte.

A surprising new result is achieved, by the apparatus provided by new claim 21, to allow the method of moving a material on a surface in situ while moving the tool carrier assembly at a controlled height on the surface in situ, in a cyclonic or anticyclonic motion. The applicant submits that the claimed method is therefore patentable under section 103.

McCanse Has No Depth Guide Held In Fixed Relation to Earthworking Tool

The method of claim 21 defines the invention patentably over McCanse (4,124,080), by providing apparatus not disclosed by McCanse. The prior art cited discloses a scraper blade that has no depth guide held in a somewhat fixed position to it. The depth guide cited, is part of the lift arm assembly and does not come in contact with the surface being worked and is therefore not a part of the tool carrier assembly. Since the claimed method under examination provides apparatus that has a depth control device which is a component of a tool carrier assembly and does contact the surface being worked, the applicant submits that the claimed apparatus provided by rewritten claim 21 would inherently perform a patentably distinct method of working a surface in situ, and would satisfy the requirements of U.S.C. 35, section 102.

The claimed method discloses surprising and unexpected results of moving a material on a surface in situ as the tool carrier assembly is moved at a controlled depth or height from

the surface in situ in a cyclonic or anticyclonic motion about the motive source, a surprising new and unobvious result. McCanse discloses no ability to move a material while moving in a somewhat cyclonic motion about the motive source as the motive source turns with a zero turning radius. Another surprising new result achieved by the claimed rolling motion of the depth guide is the action of the ground contact surface on the surface being worked. As the ground contact surface rolls over lumps of the material being worked, a common condition of a surface in situ, the depth guide smashes or crushes or otherwise flattens the surface lumps or irregularities. The applicant submits that for the reasons stated that the claimed method is patentable and meets the requirements of U.S.C. 35, section 103.

High Has No Ground Contact Surface Rotateable About Depth Guide Axis

The depth guide not numbered but shown in fig 2 of patent number 6,109,363 issued to High and cited by The Examiner as anticipating the method under examination, is not disclosed as having a ground contact surface that is rotateable about a depth guide axis. New claim 21 of the application under examination provides a ground contact surface that is rotateable about a depth guide axis. The depth guide axis of the current application is held in a somewhat fixed position by the tool carrier assembly, and is not part of the means of pivotably connecting the tool carrier assembly to the motive source. The applicant submits that the rotateable ground contact surface provided in the method of claim 21 would patentably define the invention over the cited reference according to section 102.

The claimed apparatus has a depth guide that is a part of the tool carrier assembly and is rotateable about an axis held in a somewhat fixed position in relation to the earthworking tool and has the surprising new result of maintaining a more consistent depth control in areas of loosened material on the surface being worked than the skids of the cited reference. The rotateable ground contact surface provided by the current application under examination also has the surprising new result of flattening and texturing the

surface being worked as the tool carrier is propelled about the surface in situ. The applicant submits that the claimed method and apparatus meet the requirements of section 103.

Dependent Claims Further Define Method

New claim 22 incorporates the method of claim 21 and so for the same reasons set forth previously, the applicant submits that the claimed method patentably defines over the cited references to satisfy the requirements of both, section 102 and section103. New claim 22 defines the claimed method even more by more narrowly claiming the method by providing a lift arm assembly that is capable of applying downward force, resulting in an upward tilting of the front of the motive source. This upward tilting of the preferred embodiment of the invention results in the front wheels, or surface contact propulsion assemblies, to lift off of the surface being worked. This has the surprising new and unexpected result of allowing the motive source to turn with a zero turning radius and not disrupt the surface being worked with the skidding action of the front wheels sliding across the surface being worked. This new result even more strongly suggests that the claimed method is unobvious from the cited references and the applicant submits that it satisfies the requirements of section 103.

New claim 23 incorporates the method that the applicant submits to be patentable, and to define over the cited references, of new claim 22. Claim 23 more narrowly defines the depth guide to be a roller that is rotateable around an axis. Since none of the cited references have rollers as depth guides, this even more clearly defines the claimed method and the applicant submits that it is fully compliant with the requirements of section 102. the new and unobvious results achieved by the roller is the ability of the roller to texture the surface being worked by the use of a roller with a distinctive texture that would be capable of creating a surface with indentations that would be desirable for the preparation of the surface to received seed for turf and other agricultural products. The use of a roller to smash lumps in the surface being worked would be another valuable

use for a roller. For these reasons the applicant submits that the claimed method satisfies section 103.

New claim 24, like claim 23, is claiming a method that provides rollers as depth guides, and incorporates the method of the independent claim on which it is dependent. For the reasons listed in the explanation of claim 23 in the previous paragraph the applicant submits that the new claim 24 is patentably defined over the prior art and meets the requirements of section 102. The new result of multiple rollers is the surprising ability to turn the tool carrier assembly with less resistance. The applicant submits that this new result meets the requirements of section 103.

New claim 25 incorporates the novelty of claim 21, upon which it is dependent and therefore the applicant submits that it satisfies the requirements of section 102. The more narrowly defined earthworking tool of claim 25 makes the claimed method even more strongly defined patentably over the prior art. The unobvious new result of the use of a scraper blade as provided by the claimed method is that the material on the surface being worked can be moved in a cyclonic motion about the motive source.

High Does Not Disclose Means of Moving Material in Cyclonic Motion

The scraper blade disclosed by High in patent number 6,109,363 has no ability to move a material on a surface in situ in a cyclonic motion as its motive source is turned with a zero turning radius. The limited angular adjustment of the disclosed apparatus in figs 5 and 6 of High's patent show a degree of angularity that would only move the material in an outward direction, sliding off the scraper blade and being deposited in an arc that is concentric with the center of the radius of the turn, as the skidsteer is turned in a zero turning radius.

High does not disclose a freely rotating tool carrier assembly, as claimed by the method currently under examination that would be pivotable about the somewhat vertical axis, to

a degree that would allow movement of a material in a cyclonic or anticyclonic motion. The claimed method and apparatus of claim 25 provides a way of moving the material in a cyclonic motion. The applicant submits that this surprising new result satisfies the requirements of section 103.

Dependent Claims Further Define the Method

New claim 26 provides a roller as a depth guide and incorporates all of the apparatus provided and the steps of claims 25 and 21, and for the reasons stated in the claims upon which claim 26 depends, the applicants submits that claim 26 also meets the requirements of sections 102 and 103. By providing a plurality of rollers, new claim 27 is even more patentably defined over the cited references of the prior art and also meets the requirements of sections 102 and 103.

New claim 28 provides a scraper blade and incorporates all of the method steps and apparatus provided by new claim 22 upon which it depends. The applicant submits that for the reasons stated previously that the claimed method satisfies sections 102 and 103, Claim 28 is even more patently defined over the cited references in that the earthworking tool is a scraper blade. The surprising new result of the claimed method is that the scraper blade can be forced downward resulting in an ability to carve the high spots in the surface in situ as the scraper blade is propelled about the surface. The downward force on the tool carrier assembly prevents the scraper blade from riding up over the more tightly compacted areas of the surface in situ as the scraper blade carves the high spots off and deposits the excess material in low spots or depressions in the surface. The applicant submits that the unobvious results of the claimed method are patentable according to section 103.

New claim 29 incorporates the method and apparatus of claims 28, 22 and 21 and the applicant submits that for all the reasons stated in the claims upon which claim 29 depends that claim 29 is patentable according to sections 102 and 103, and furthermore a new and surprising result with the further limitation of the method including the roller

provided in claim 29 of having the ability to texture the surface in situ with the ground contact surface of the roller provided.

Since new claim 30 provides a plurality of rollers and is dependent of claim 29 the applicant submits that it is patentably defined according to sections 102 and 103. The surprising new result of the method of claim 30 is the ability to turn more easily in a way that spins the tool carrier assembly in a pivoting motion with one or more of the rollers rotating in one direction, and one or more of the rollers rotating in the opposite direction.

New claim 31 provides a means of controlling the depth of the earthworking tool from the surface being worked. For the reasons set forth previously in these remarks in claim 21, the applicant submits that the claim upon which claim 31 depends define the method patentably over the prior art and meet the requirements of section 102. The surprising new result of claim 31 is the ability to raise or lower the earthworking tool to any desired height from the surface being worked, or to lower the earthworking tool to dig more deeply into the material on the surface. The applicant submits that the unobvious result meets the requirements of section 103.

New claim 32 is dependent upon claims 21, 22, 23 and 24, and for the reasons set forth previously in these remarks the applicant submits that claim 32 is patentably defined over the prior art, and is even more patentable according to section 102 because of the ability to raise or lower the earthworking tool to any desired height from the surface being worked, or to lower the earthworking tool to dig more deeply into the material on the surface. The surprising new result is the ability to move the material on the surface to a consistent depth. The applicant submits that the method of claim 32 is patentable according to section 103.

New claim 33 is dependent upon claims 21, 25, 26 and 27, and for the reasons set forth previously in these remarks in those claims upon which it depends, the applicant submits that claim 33 is patentable according to section 102. The applicant submits that the means provided in claim 33 more narrowly defines the method by adding the ability to

raise or lower the scraper blade to any desired height from the surface being worked, or to lower the scraper blade to dig more deeply into the material on the surface, and therefore is even more patentable according to section 102. The surprising new result is the ability to move the material on the surface and to deposit excess material that is moved about the surface by the scraper blade into depressions in the surface. The ability to raise the height of the scraper blade from the surface to deposit more of the material in a desired area gives the new result of being able to control the amount of fill in the desired area. The ability to lower the scraper blade gives the ability to cut more deeply into the surface being worked so that areas of the surface that need to be lowered can be carved off of the surface and the material deposited in areas that need to be filled to a higher elevation. The applicant submits that the unobvious results of the method of claim 33 make it patentable according to section 103.

Independent Claim Defines Method

New claim 34 provides a means of bilateral propulsion control of the motive source that causes the movement of a left side wheel or surface contact propulsion assembly to be controlled and to move independently of the right side propulsion assembly. Three of the prior art references cited by The Examiner in the Office Action, patent number 5,209,307 (Hotte), patent number 4,124,080 (McCanse) and patent number 5,603,172 (Maher), do not have a means of bilateral propulsion control of the cited motive sources. The applicant submits that the method of claim 34 is patentably distinct over the three pointed out as not anticipating the claimed method. New claim 34 also provides a depth guide that is rotateable about an axis and is part of the tool carrier assembly. High (patent number 6,109,363) does not disclose a depth guide that is rotateable about an axis that is held by a means in a somewhat fixed relation to the earthworking tool of the tool carrier assembly. The applicant submits that the High reference cited in The Office Action does not anticipate the claimed method and that the claimed method is therefore patentably distinct over the cited reference and meets the requirement of novelty as set forth in section 102.

The unobvious new result of the claimed method of claim 34 is the ability to move the motive source in a direction on the surface in situ and without disengaging the tool carrier assembly from the surface being worked to selectively engage the surface contact propulsion assemblies at differing speeds so that the tool carrier assembly is urged to rotate abut the somewhat vertical axis so that the surface may be worked in any direction without disengaging the tool carrier assembly from the surface being worked while the earthworking tool is maintained at a consistent height by the depth guide. The close proximity of the depth guide to the earthworking tool allows the tool to work the surface in a more rapid manner when frequent maneuvering around obstacles at the worksite is required. For these reasons the applicant submits that the claimed method meets the requirements set forth in section 103.

Dependent Claims Further Define the Method

New claim 35 and its independent claim 34 provide a second means of pivotably attaching the support structure to the tool carrier assembly in a pivotable way such that the tool carrier assembly is able to pivot on a horizontal axis in relation to the support structure. The applicant submits that none of the prior art reference cited by The Examiner anticipate the apparatus provided in the claimed method, and that the claimed method is novel according to section 102. The surprising and unobvious new result of the method of claim 34 is that the tool carrier assembly remains totally engaged with the surface when the motive source rocks from side to side as the motive source moves across the surface being worked and encounters irregularities in the surface. The claimed means of a somewhat horizontal pivotable connection of the support structure to the tool carrier assembly allows the pivotable action to allow the independent movement of the motive source and support structure in relation to the tool carrier assembly. The applicant submits that the claimed method is unobvious and is patentable according to section 103.

New claim 36 includes all of the steps of the claimed method of claims 34, and 35 upon which it depends. The applicant submits that for the reasons given in claims 34 and 35 that claim 36 is novel over the prior art cited by The Examiner. It is even more patentably defined by the addition of a lift arm assembly provided by the claimed method of claim 36. The applicant submits that the method claimed in claim 36 meets the requirements of section 102. The surprising new result of the method of claim 36 is the ability to apply downward force on the tool carrier assembly while it is propelled about the surface. Using the bilateral means of propulsion control while the downward force is applied to the tool carrier assembly changes the direction of travel of the motive source while the forward end of the motive source is tilted upward. This causes the forward portion of the surface contact propulsion assembly is lifted off the surface being worked. With the forward portion of the surface contact propulsion assembly lifted off the surface being worked there is less disturbance of the material on the surface being worked as the motive source is turned. The applicant submits that this unobvious and surprising new result is patentable according to section 103.

New claim 37 incorporates all of the steps of claims 34, 35, and 36. The applicant submits that for the reasons of novelty set forth and submitted to be patentably novel according to section 102, that the claimed steps of claim 37 are even more patentably defined because the earthworking tool is more narrowly defined as a scraper blade. The surprising new results of the method of claim 37 is the ability to move the material on the surface in situ from areas of higher elevations on the surface to deposit the material in areas of lower elevations or depressions in the surface in situ, as the motive source is maneuvered about the surface. As the lift arm assembly is forced downward the scraper blade of claim 37 carves into the surface more effectively and does not ride up over the high spots. The applicant submits that this surprising new result is patentable according to section 103.

New claim 38 incorporates all of the steps of claims 34, 35, 36, and 37. For the reasons set forth in the preceding claims the applicant submits that claim 38 is patentable according to section 102. It is made even more patentably defined by the depth guide

being more narrowly defined as a roller with a means of rotating the roller about a depth guide axis. The surprising new result of the roller provided by claim 38 is the ability of the provided apparatus to texture the surface being worked and to break up lumps on the surface. The applicant submits that the claimed method meets the requirements of section 103.

New claim 39 depends upon claim 38 and provides a plurality of rollers. For the reasons set forth in claim 38 and all the claims upon which claim 38 depends, the applicant submits that the claimed method of claim 39 is novel according to section 102. The unobvious result of claim 39 is the ability to turn more easily in a way that spins the tool carrier assembly in a pivoting motion with one or more of the rollers rotating in one direction, and one or more of the rollers rotating in the opposite direction. The applicant submits that the claimed method meets the criteria of section 103 and is of patentable distinction over the prior art.

Conclusion

For all of the above reasons the applicant submits that the specification and claims are now in proper form, and that the claims all define patentably over the prior art. Therefore the applicant submits that this application is now in condition for allowance, which action is respectfully requested.

Request for Claims Drafting Assistance

The applicant has amended the specification and claims of this application so that it is proper, definite, and defines novel structure which is also unobvious. If for any reason the application is not believed to be in full condition for allowance, the applicant respectfully requests the constructive assistance and suggestions of The Examiner pursuant to M.P.E.P. sub section 2173.02 and sub section 707.07(j) in order that the

undersigned can place this application in condition for allowance as soon as possible and without the need for further proceedings.

Very Respectfully

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Certificate of Mailing:

I hereby certify that this correspondence, and attachments, if any, will be deposited with the United States Postal Service by First Class Mail, postage prepaid, in an envelope addressed to "Mail Stop Non-Fee Amendments, Commissioner for Patents, P. O. Box 1450, Alexandria Virginia 22313-1450", on the date below.

July 19, 2005

Patrick A. Newnam
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MARKED UP REPLACEMENT SHEET
APP.# 10/798,144 NEWNAM AMENDMENT A
GAU 3671

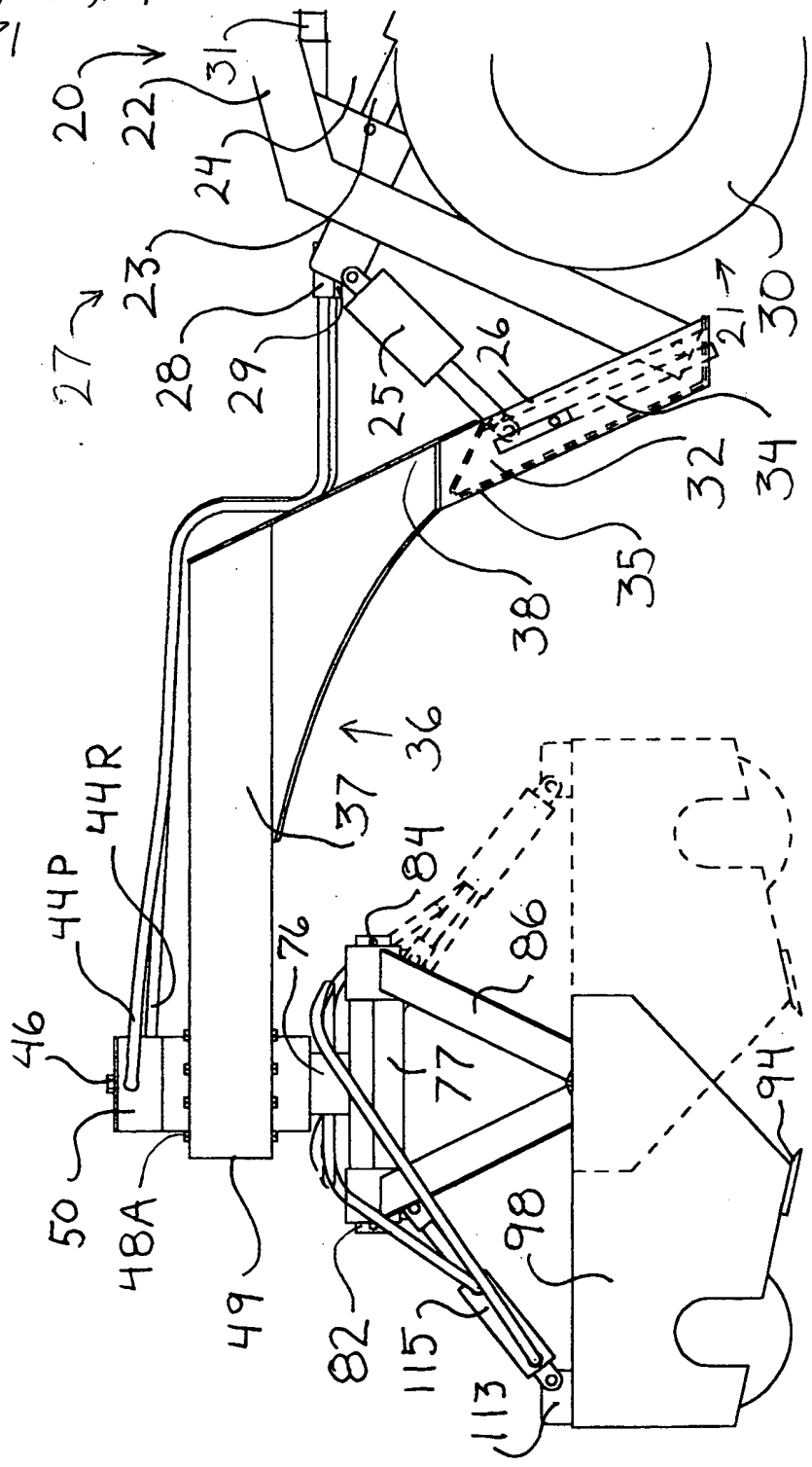

FIG1

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MARKED UP REPLACEMENT SHEET
APP. # 10/798,144
NEWNAM
GAU 3671
AMENDMENT A

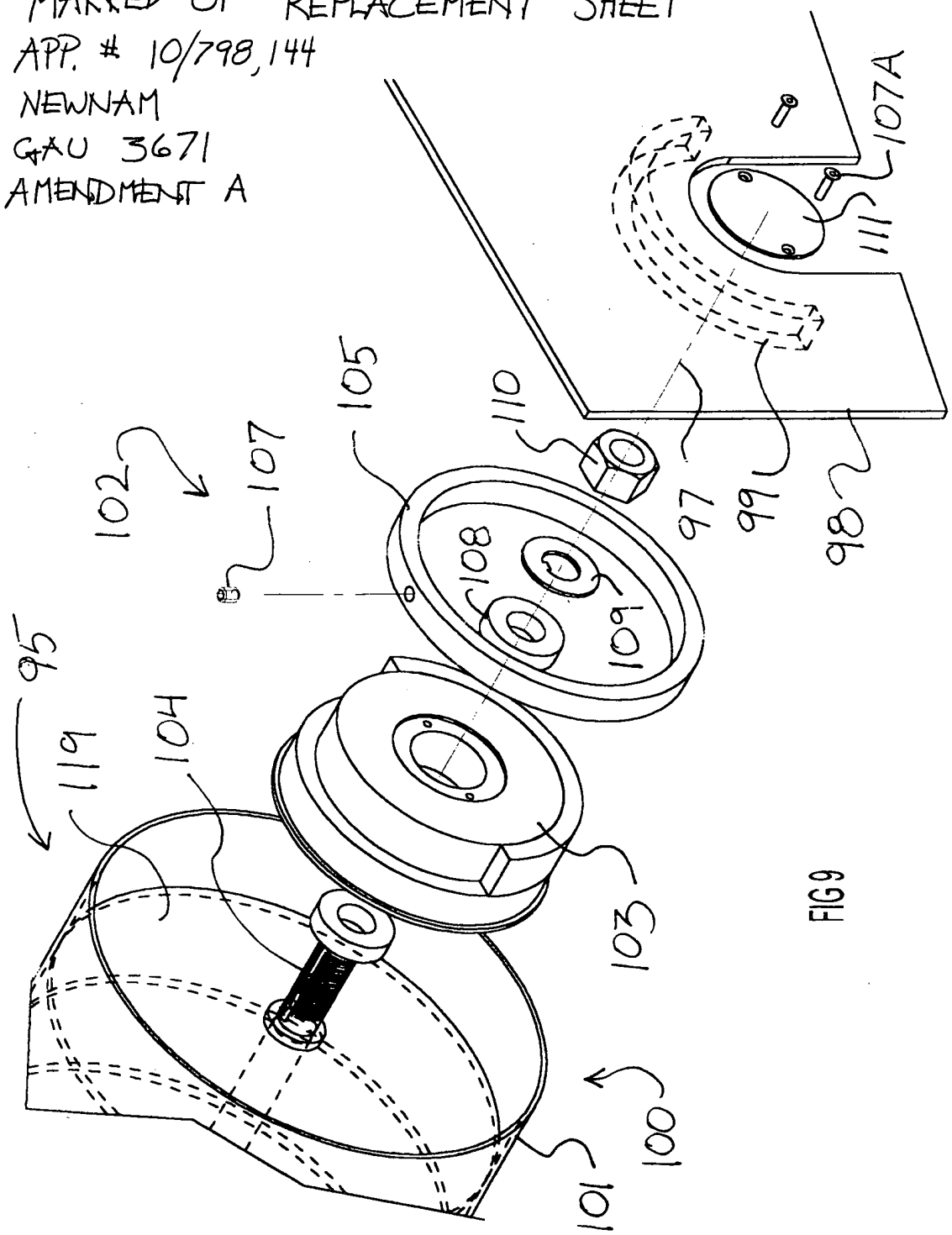

FIG 9